

**DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance and Securities Regulation, pursuant to the authority set forth in Section 4 of the Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-103(a)(1) (2001)) and Section 1205 of Part A of Title XII of the National Housing Act, approved August 1, 1968 (82 Stat. 569; D.C. Official Code § 31-5004(b) (2001)), gives notice of the adoption of the following amendments to be included in Title 26 of the District of Columbia Municipal Regulation ("DCMR"). The rules will become effective upon the publication of this notice in the D.C. Register. The proposed rules were published on November 12, 2004 (51 D.C.R. 10440). The purpose of the rulemaking is to amend the District of Columbia Insurance Placement Facility's Constitution and Plan of Operation so as to allow for the provision of homeowners insurance, among other things.

CHAPTER 13 (INSURANCE PLACEMENT FACILITIES), TITLE 26, DCMR, IS AMENDED AS FOLLOWS:

1300 GENERAL PROVISIONS

1300.1 It is the purpose of this chapter to establish a constitution and provide for the administration of an industry placement facility pursuant to the provisions of D.C. Official Code § 31-5004(b) (2001) ("Statute").

1300.2 The Commissioner and his or her designee shall be responsible for performing the duties and responsibilities with respect to exercising the regulatory authority conferred by the Statute, through the Mayor, pursuant to D.C. Official Code § 31-103(a)(1) (2001).

1301 NAME AND STYLE OF ORGANIZATION

The name of this organization shall be District of Columbia Property Insurance Facility ("Facility"). The Facility shall be an unincorporated association.

1302 OBJECTIVE

The objective of the Facility shall be the formulation and administration of a program seeking the equitable apportionment of insurance among its Members in accordance with the provisions of the Statute and pursuant to the District of Columbia Property Insurance Facility's Plan of Operation ("Plan of Operation").

1303 MEMBERSHIP

- 1303.1 Every insurer licensed to write and engaged in writing in the District of Columbia, on a direct basis, Basic Property Insurance, as defined in the Plan of Operation, or components of such insurance in multi-peril policies, shall be a Member of the District of Columbia Property Insurance Facility.
- 1303.2 Each Member shall participate, subject to a maximum as hereinafter provided, in the writings, expenses, profits and losses of the Facility in the proportion that such Member's Premiums Written during the preceding calendar year, on property located in the District of Columbia, bear to the aggregate of such Premiums Written by all Members of the Facility.
- 1303.3 The maximum liability of a Member on any single risk shall not exceed one and one-half percent (1 1/2%) of the Member's surplus to policyholders. The remaining Members shall assume liability in excess of such maximum and they shall share ratably the premiums applicable thereto.
- 1303.4 The Facility may procure, through assessment of all its Members, subject to reasonable minimum assessments, funds necessary to defray expenses required to operate.
- 1303.5 A Member, which has withdrawn from the District, has had its license revoked or has been placed in liquidation, shall remain liable for all obligations through the entire fiscal year of the District of Columbia Property Insurance Facility in which such withdrawal, license revocation or liquidation occurs. When a Member has been merged or consolidated into another insurer, the Member, or its successor in interest, shall remain liable for all obligations hereunder and shall continue to participate in the Facility, based upon the Premiums Written by it and by the other insurers with which it has been merged or consolidated.

1304 OFFICE

The principal office of the Facility shall be in the District of Columbia or at a location approved by the Commissioner.

1305 BOARD OF DIRECTORS FOR THE FACILITY

- 1305.1 The Facility shall be governed by a Board of Directors ("Board") composed of eleven (11) directors elected annually by cumulative vote of the Members of the Facility whose votes in such election shall be weighted in accordance with each Member's proportionate share of aggregate Premiums Written during the most recent calendar year for which data is available.
- 1305.2 Directors shall serve for a period of one (1) year or until their successors are elected.

- 1305.3 No more than one (1) Member in a group of insurers under the same management or ownership shall serve as a director on the Board at the same time.
- 1305.4 The Board shall have responsibility for the administration of the Facility and shall adopt and promulgate such rules as may be necessary to carry out the objective of the Facility subject to the powers of the Commissioner set forth in the Statute.
- 1305.5 The Board shall elect from its directors a Chairperson and a Vice Chairperson and shall appoint a Secretary.
- 1305.6 The Board shall make appropriate arrangements for the daily management of the affairs of the Facility.
- 1305.7 Regular and special meetings of the Board shall be held in the District, unless another place shall be designated by the Chairperson of the Board.
- 1305.8 The Board shall meet as often as may be required to perform the general duties of administration and shall meet upon the request of any two (2) directors or of any ten (10) Members.
- 1305.9 Notice of Board meetings shall be furnished by the Secretary.
- 1305.10 Six (6) directors shall constitute a quorum.
- 1305.11 Each director shall have one (1) vote. Any matter submitted shall be carried provided it is voted in the affirmative by a majority of the Board. Voting by proxy at meetings of the Board shall not be permitted.
- 1305.12 Any action required or permitted by law to be taken at a meeting may be taken without a meeting if the action is taken by unanimous consent of all directors entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken, signed by all the directors entitled to vote on the action, and delivered to the Secretary for inclusion in the minutes for filing with the corporate records. The action shall be deemed effective when the last director signs the consent, unless the consent specifies a different effective date.
- 1305.13 The Board or any committee of the Board may permit any or all directors or committee members to participate in a regular or special meeting by, or conduct the meeting through, the use of any means of communication by which all directors or committee members participating may simultaneously hear each other during the meeting. A director or committee member participating in a meeting by this means shall be deemed to be present in person at the meeting.

- 1305.14 The Chairperson, or in his or her absence the Vice Chairperson, shall preside at meetings of the Board and at annual or special meetings of the Members of the Facility. The Secretary, or a designee appointed by the Chairperson or Vice Chairperson, shall act as Secretary at such meetings.
- 1305.15 The Chairperson may appoint or the Board may elect such standing committees or temporary or special committees as may be deemed necessary for the transaction of the Board's business. The Chairperson and Vice Chairperson shall be ex-officio Members of all committees of the Board with the right to vote.
- 1305.16 The Board shall have the right, in person or through representatives, at all reasonable times, to audit and inspect the books and records of any Member of the Facility as to matters coming within the purview of the Constitution and the Plan of Operation.
- 1306 ANNUAL AND SPECIAL MEETINGS OF MEMBERS OF THE FACILITY**
- 1306.1 There shall be an annual meeting of Members, on a date fixed by the Board, for the election of directors and for such other business as may be necessary.
- 1306.2 Special meetings of the Members may be called by the Board on its own motion or upon the written request to the Board by any ten (10) Members, no two (2) of which shall be in the same group of insurers with respect to management or ownership.
- 1306.3 Written notice of the annual or any special meeting, stating the time and place and the matters to be considered, shall be given to all Members at least ten (10) days in advance of each meeting.
- 1306.4 Notice, in the case of a special meeting, shall be accompanied by the agenda for such meeting and such supporting data and information as may be assembled by the Board. No matter may be considered at any special meeting that has not been included in the agenda.
- 1306.5 At any annual or special meeting, Members representing at least fifty-one percent (51%), of the aggregate Premiums Written by Members of the Facility, based on the most recent available data, shall constitute a quorum. Members may be represented by proxy.
- 1306.6 Voting on matters requiring a vote by the Members, including amendment to the Constitution or termination of the Facility, shall be weighted in accordance with the Premiums Written by each Member as determined from the most recent available data.

1306.7 A proposal, other than for the election of directors, shall be considered adopted by the Members when approved by at least two-thirds (2/3) of the votes cast on the weighted basis described in subsection 1306.6.

1306.8 Any matter subject to vote by the Members may be proposed and voted upon by mail, facsimile or electronic communication, provided such procedure is authorized by a majority of the Board.

1307 INDEMNIFICATION

1307.1 The Facility shall indemnify:

(a) each director of the Board (or other board empowered to act in the capacity of a board of directors) and the representatives of any insurer Member of the Board, each Member of any other committee or any subcommittee of the Facility, and the estate, executor, administrator, personal representative, heirs, legatees and devisees of any such person made a party to a proceeding by reason of service in that capacity unless it is proved that:

(1) The act or omission of such Member or person was material to the cause of action adjudicated in the proceeding; and (A) was committed in bad faith or (B) was the result of active and deliberate dishonesty;

(2) Such Member or person actually received an improper personal benefit in money, property, or services; or

(3) In the case of any criminal proceeding, such Member or person had reasonable cause to believe that the act or omission was unlawful.

(b) every Member of the Facility, both as a Member and by reason of such Member having one or more of its personal representatives or employees serving in any of the capacities or positions specified in paragraph (a) above, or as an officer or employee of the Facility, which has been made a party to a proceeding by reason of service in that capacity, unless it is proved that:

(1) The act or omission of such Member or person was material to the cause of action adjudicated in the proceeding; and (A) was committed in bad faith or (B) was the result of active and deliberate dishonesty;

(2) Such Member or person actually received an improper personal benefit in money, property, or services; or

- (3) In the case of any criminal proceeding, such Member or person had reasonable cause to believe that the act or omission was unlawful.

- 1307.2 Indemnification under subsection 1307.1 shall be against judgments, penalties, fines, settlements, and reasonable expenses actually incurred by the Member or person in connection with the proceeding. However, if the proceeding was commenced by, on behalf of, or in the right of, the Facility, indemnification shall not be made in respect of any proceeding in which the Member or person shall have been adjudged to be liable to the Facility.
- 1307.3 The termination of any proceeding by judgment, order, or settlement does not create a presumption that the Member or person did not meet the requisite standard of conduct set forth in subsection 1307.1. The termination of any proceeding by conviction, or a plea of *nolo contendere* or its equivalent, or an entry of an order of probation prior to judgment, creates a rebuttable presumption that the Member or person did not meet that standard of conduct.
- 1307.4 The Facility may indemnify any officer or employee of the Facility, any consultant to, or independent contractor retained by the Facility, or the estate, executor, administrator, personal representative, heirs, legatees or devisees of such person made a party to a proceeding by reason of service in that capacity unless it is proved that:
- (a) The act or omission of such person was material to the cause of action adjudicated in the proceeding; and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty;
 - (b) Such person actually received an improper personal benefit in money, property, or services; or
 - (c) In the case of any criminal proceeding, such person had reasonable cause to believe that the act or omission was unlawful.
- 1307.5 Indemnification under subsection 1307.4 may be against judgments, penalties, fines, settlement, and reasonable expenses actually incurred by the person in connection with the proceeding. However, if the proceeding was commenced by, on behalf of, or in the right of, the Facility, indemnification may not be made in respect of any proceeding in which the person shall have been adjudged to be liable to the Facility.
- 1307.6 The termination of any proceeding by judgment, order or settlement does not create a presumption that the person did not meet the requisite standard of conduct set forth in subsection 1307.4. The termination of any proceeding by

conviction, or a plea of *nolo contendere* or its equivalent, or an entry of an order of probation prior to judgment, creates a rebuttable presumption that the person did not meet that standard of conduct.

1307.7 A Member or person shall not be indemnified under of subsection 1307.1 or 1307.4 in respect of any proceeding charging improper personal benefit to the Member or person, whether or not involving action in the Member's or person's official capacity, in which the Member or person was adjudged to be liable on the basis that personal benefit was improperly received.

1307.8 A court of appropriate jurisdiction, upon application of a Member or person and such notice as the court shall require, may order indemnification in the following circumstances:

(a) If it determines a Member or person is entitled to reimbursement under subsection 1307.1, the court shall order indemnification, in which case the Member or person shall be entitled to recover the expenses of securing such reimbursement; or

(b) If it determines that the Member or person is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the Member or person met the standards of conduct set forth in subsections 1307.1 or 1307.4, or has been adjudged liable under the circumstances described in subsection 1307.7, the court may order such indemnification as the court shall deem proper. However, indemnification with respect to any proceeding commenced by, on behalf of, or in the right of, the Facility, or in which liability shall have been adjudged in the circumstances described in subsection 1307.7, shall be limited to expenses.

1307.9 A court of appropriate jurisdiction may be the same court in which the proceeding involving the Member or person's liability took place.

1307.10 Indemnification under subsection 1307.1 shall not be made by the Facility unless authorized for a specific proceeding after a determination has been made that indemnification of the Member or person is required in the circumstances because the Member or person has met the standard of conduct set forth in subsection.

1307.11 Such determination under subsection 1307.10 shall be made:

(a) By the Board by a majority vote of a quorum consisting of directors not, at the time, parties to the proceeding, or, if such a quorum cannot be obtained, then by a majority vote of a subcommittee of the Board consisting solely of two or more directors not, at the time, parties to such proceeding and who were duly designated to act in the matter by a

majority vote of the full Board in which the designated directors who are parties may participate;

(b) By special legal counsel selected by the Board or a subcommittee of the Board by vote as set forth in subparagraph (a) hereof, or if the requisite quorum of the full Board cannot be obtained therefore and the subcommittee cannot be established, by a majority vote of the full Board in which directors who are parties may participate; or

(c) By the Members of the Facility.

1307.12 Indemnification under subsection 1307.4 may not be made by the Facility unless authorized for a specific proceeding after a determination has been made that indemnification of the person is permitted in the circumstances because the person has met the standard of conduct set forth in that subsection and that under the circumstances indemnification is in the best interests of the Facility.

1307.13 Such determination under subsection 1307.12 shall be made:

(a) by the Board by a majority vote of a quorum consisting of directors not, at the time, parties to the proceeding, or, if such a quorum cannot be obtained, then by a majority vote of a subcommittee of the Board consisting solely of two or more directors not, at the time, parties to such proceeding and who were duly designated to act in the matter by a majority vote of the full Board in which the designated directors who are parties may participate; or

(b) by the Members of the Facility.

1307.14 Authorization of indemnification and determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is required or permitted. However, if special legal counsel makes a determination that indemnification is required, authorization of indemnification and determination as to reasonableness of expenses shall be made in the manner specified in paragraph 1307.13(b) for selection of such counsel.

1307.15 Reasonable expenses incurred by a Member or person, other than an officer or employee, who is a party to a proceeding shall be paid or reimbursed by the Facility, and in the case of an officer or employee, reasonable expenses incurred may be paid or reimbursed by the Facility in advance of the final disposition of the proceeding upon receipt by the Facility of:

(a) A written affirmation by the Member or person of the Member's or person's good faith belief that the standard of conduct necessary for indemnification by the Facility as authorized by this section has been met; and

1307.23 The indemnification provided by this chapter shall be secondary to any benefits which the Member or person may be entitled to receive from any applicable insurance policy providing Directors and Officers, Errors and Omissions or other applicable insurance coverage, which has been procured by the Facility or for which the Facility has paid the premium.

1307.24 The indemnification provided by this chapter shall be primary over any indemnification provided by a Member or a director of the Board at his or its own expense. The indemnification provided for in this chapter shall be deemed to be an expense of the Facility to which all of the Members of the Facility shall contribute in the proportion that such Member participates according to law in writings, expenses, and losses of the Facility.

1307.25 In this section, the following terms shall have the meanings ascribed:

"Member" means any entity that is or was an insurer member of the Facility or a director of the Board of Directors of the Facility.

"Expenses" includes, but not limited to, attorney's fees.

"Official capacity" means the following:

- (i) The role of a Member of the Facility, when used with respect to a Member;
- (ii) The position of director of the Board of Directors of the Facility, when used with respect to a director of the Board of Directors; and
- (iii) The elective or appointive office in the Facility held by the officer, or the employment relationship undertaken by the employee on behalf of the Facility, when used with respect to an entity or person other than a Member of the Facility or a director of the Board of Directors.

"Party" includes a person who was, is, or may be made, a named defendant or respondent in a proceeding.

"Proceeding" means any threatened, pending or completed action or suit, whether civil, criminal, administrative, or investigative.

1308 INSOLVENCY

1308.1 If any Member fails, by reason of insolvency to pay its proportion of any expense or of any loss incurred by the Facility, the unpaid loss or the remaining Members shall pay expense, each contribution in the manner provided for distribution of

expenses and losses under the Constitution, deleting thereby the proportion of the defaulting Member.

- 1308.2 The Facility shall be subrogated to the rights of the remaining Members in any liquidation proceeding and shall have full authority on their behalf to exercise their rights in any action or proceeding.
- 1308.3 In the event of insolvency of a Member, any reinsurance assumed by the Facility with respect to policies issued by such Member pursuant to the previous Plan of Operation shall be payable as follows:
- (a) On the basis of the liability of the Member without diminution;
 - (b) Directly to the Member; or
 - (c) To its liquidator, receiver or statutory successor.
- 1308.4 An exception to subsection 1308.3 shall apply when the Facility, with the consent of the insured under the reinsured policy, as evidenced by endorsement, has assumed the policy obligations of the Member as direct obligations of the Facility to the payees under the policy and as a substitute for the obligations of the Member to the payees.
- 1308.5 The liquidator, receiver or statutory successor of the Member shall give written notice to the Facility of the pendency of a claim against the Member on the policy reinsured within a reasonable time after the claim is filed in the insolvency proceeding.
- 1308.6 During the pendency of a claim, the Facility may investigate the claim and, at its own expense, in the proceeding where the claim is to be adjudicated, interpose any defense or defenses that it may deem available to the Member or its liquidator, receiver or statutory successor.
- 1308.7 The expense incurred by the Facility shall be chargeable subject to court approval against the insolvent Member as part of the expense of liquidation to the extent of a proportionate share of the benefit that may accrue to the Member solely as a result of the defense undertaken by the Facility.

1309 AMENDMENTS

The Facility's Constitution may be amended by the Members subject to the powers of the Commissioner as set forth in the Statute.

1310 PLAN OF OPERATION

- 1310.1 The revised Plan of Operation, which was approved by the Commissioner and deemed effective as of April 1, 2004, replaces the prior Plan of Operation that had been effective as of October 1, 1972, as amended, provides that the Plan of Operation shall remain effective to complete all unfinished business in progress and until such time as all liability has ceased, claims are settled and final settlement has been made with respect to insurance written pursuant to the Plan of Operation.
- 1310.2 The Facility is authorized to issue policies or certificates of insurance on risks in a form where each Member of the Facility shall be a direct insurer hereunder in such proportion as its Premiums Written bear to the total Premiums Written of all Members.
- 1310.3 Liability of each Member shall be several, each of itself, and not joint, and no Member shall be liable under any such policy or certificate for the liability of any other Member, except as otherwise provided in this chapter.
- 1310.4 Members of the Facility shall be deemed to have authorized the manager of the Facility to act as attorney-in fact for all Members to execute policies on behalf of the Member companies.
- 1310.5 Any policy or certificate of insurance issued pursuant to this section shall be executed on behalf of the participating Members by any attorney-in-fact appointed.
- 1310.6 The attorney-in-fact shall pay, on behalf of such Members, premium and other taxes related to Facility business on terms and conditions agreeable to the taxing authority involved.
- 1310.7 In the event of death, resignation or incapacity of said attorney-in-fact to act, the Board shall nominate a successor.
- 1310.8 No policy or certificate of insurance shall be affected or invalidated by any change of the attorney-in-fact who, at the time the policy or certificate of insurance was issued, shall have duly acted pursuant to the powers vested in him or her.

1311 INSPECTIONS AND REPORTS

- 1311.1 Any property owner is entitled to an inspection by the Facility of property that is eligible for Basic Property Insurance or Homeowners Insurance and, if unable to obtain such insurance in the normal market, may apply to the Facility for such inspection.

- 1311.2 The application shall include a request for inspection and the original inspection or attempt to inspect shall be made at no cost to the applicant. If the inspector is unable to complete an inspection of the property due to the fault of the owner, the applicant or their designated responsible representative, the Facility shall require the applicant to pay, in advance, the reasonable cost of any subsequent inspection efforts. The Board of Directors shall set the fee for the reasonable cost of any subsequent inspection efforts.
- 1311.3 The inspector must be provided full access to the property for which the inspection is sought, but the presence of the owner of a building may not be required when a tenant is seeking insurance.
- 1311.4 An Inspection Report shall be made for each property inspected and shall be sent to the Facility. The report shall cover pertinent structural and occupancy features, as well as the general condition of the building and surrounding structures. Representative photographs of the property shall be taken during the inspection.
- 1311.5 Once an eligible risk has been inspected and found insurable, it shall be re-inspected only:
- (a) Upon request of the property owner;
 - (b) Upon a limited basis for statistical purposes as determined by the Board;
 - (c) Upon a change in type of occupancy;
 - (d) Upon a schedule of not more than once every three (3) years as determined by the Board; or
 - (e) Upon information or well founded belief of the Manager of the Facility that the occupancy hazards or physical condition of the property have substantially changed since the last inspection.

1312 PROCEDURE AFTER INSPECTION

- 1312.1 In order to achieve maximum uniformity in the definition and application of reasonable underwriting standards, the Board of Directors shall specify criteria that are contained in the Rules of the Plan of Operation, which shall be used by the Facility in determining insurability.
- 1312.2 A risk shall not be declined for reason of neighborhood or area location or Environmental Hazard beyond the control of the Property Owner.
- 1312.3 The Facility shall advise the licensed insurance producer or applicant that:
- (a) The risk is acceptable and the policy will be issued upon receipt of the full required amount of the premium;

- (b) The risk is not acceptable, but will be acceptable if improvements, noted on the Report of Declination, are made by the applicant and confirmed by reinspection or other means; or
- (c) The risk is not acceptable for the reason stated in the Report of Declination.

1312.4 If the inspection of the property reveals that there are one or more substandard conditions, condition charges may be imposed in conformity with the substandard rating plan approved by the Commissioner. Whenever improvements are specified, they shall be set forth in such a way that the applicant will know what must be done to achieve insurability at standard rates: (a) with an approved condition charge, or (b) without any condition charge. If an approved condition charge is applicable, coverage shall be provided immediately at the approved higher rate during the period in which any improvements are being made. If improvements are completed and are verified by the Facility through inspection or other means, the premium shall be pro-rated and adjusted to the proper level. Coverage bound and approved and cancelled prior to policy issuance shall be pro-rated, with applicable condition charges, for purposes of earned premium calculations.

1312.5 In the event a risk is declined because it fails to meet reasonable underwriting standards, or if the applicant is notified that coverage will be written if stated improvements are made, the Facility shall send copies of the Inspection Report and the Report of Declination to the Property Owner along with an explanation of the Facility's action and the procedures for appealing that action.

1312.6 Forms listing all condition charges applied by the Facility will be furnished with the Approval Notice.

1313 PLACEMENT OF INSURANCE

1313.1 Premiums are payable by licensed insurance producers on a net basis to the Facility by means and in a form acceptable to the Facility. The Facility must have on file a copy of the producer's current license issued by the Department of Insurance, Securities and Banking of the District of Columbia. Premium financing arrangements will be honored by the Facility.

1313.2 All others seeking insurance are required to pay gross premium by means and in a form acceptable to the Facility.

1313.3 Payment may be made in person or by mail, but cash shall not be sent through the mail.

1313.4 Payment shall be received by the Facility before coverage can become effective.

- 1313.5 Dishonored first payments will void the policy. Other dishonored payments will cause the policy to be cancelled on a pro-rata equity basis.
- 1313.6 Customers may elect an installment payment plan developed by the Facility and approved by the Commissioner. Commissions shall be paid only on payments received, excluding installment payment fees.
- 1314 **IMMEDIATE BINDING**
- Eligible risks shall be subject to immediate binding in accordance with procedures adopted by the Board in the Rules of the Plan of Operation.
- 1315 **STANDARD POLICY COVERAGE**
- 1315.1 All policies issued shall be for Basic Property Insurance or Homeowners Insurance on standard policy forms and shall be issued for a term of one (1) year. Policies may be continued on a year-to-year basis only upon the annual submission of a properly completed continuation application, receipt of the proper premium and approval by the Facility.
- 1315.2 Deductibles, percentage participation clauses, and other underwriting devices may be employed to meet special problems of insurability, subject to approval of the Commissioner.
- 1315.3 The Facility shall, subject to the provisions of the Plan of Operation, write insurance up to the reasonable insurable value of the property, subject to a maximum of one million five hundred thousand dollars (\$1,500,000) on all interests at one location. The Board may set sub-limits on certain lines of insurance subject to approval of the Commissioner.
- 1315.4 After the issuance of a policy, the following procedure shall be followed to effect any change by endorsement:
- (a) The request for change must be in writing;
 - (b) The endorsement shall be prepared by the Facility;
 - (c) The request for endorsement shall be implemented by proper adjustment of premium;
 - (d) The endorsement shall be signed by the attorney-in-fact of the Facility;
and
 - (e) The original of the endorsement shall be sent to the named insured or licensed producer.

1316 CANCELLATIONS

1316.1 Grounds for Cancellation shall be:

- (a) Non-payment of premium;
- (b) Evidence of incendiarism;
- (c) Cause which would have been grounds for non-acceptance of the risk at the time of acceptance;
- (d) Cause arising subsequent to the inspection, which would have been grounds for non-acceptance of the risk under the Plan of Operation, had such cause existed at the time of inspection; or
- (e) Two (2) unsuccessful attempts to inspect the property.

1316.2 Except for non-payment of premium, or evidence of incendiarism, or a cause, which would have been grounds for non-acceptance of the risk at the time of inspection, or a misrepresentation of fact, thirty (30) days notice of cancellation, together with a statement of the reasons therefore, shall be sent to the insured. A statement explaining that the insured has a right of appeal shall accompany all notices.

1317 RIGHT OF APPEAL

1317.1 Any applicant for insurance, any person insured pursuant to the Plan of Operation or any affected insurer may appeal to the Board within fifteen (15) days after any ruling, action or decision of the Facility. The Board or an appeals committee designated by the Board shall hear and determine such appeal within fifteen (15) days after the same is filed. Such determination may be appealed to the Commissioner within ninety (90) days as provided in the Statute.

1317.2 Orders of the Commissioner shall be subject to judicial review as provided in the Statute.

1318 COMMISSIONS

1318.1 Commissions to the licensed producers, designated by the Property Owner or the insured, shall be twelve percent 12% until the Board determines a different amount and that amount is approved by the Commissioner.

1318.2 If a policy is canceled, or if an endorsement is issued which requires a premium to be returned to the insured, the unearned premium, net of any commission, will be sent to the licensed producer. The producer shall add to that return the commission on that unearned premium and refund the total amount to the insured.

- 1318.3 Notwithstanding the provisions of subsection 1318.2, if a policy is canceled, or if an endorsement is issued which requires a premium to be returned to the insured, and a licensed premium finance company has paid the insured's premium pursuant to a premium finance agreement of which the Facility has been notified, the unearned premium, net of any commission, will be sent directly to the licensed premium finance company. The producer shall be solely responsible for the return to the licensed premium finance company of the commission on that unearned premium.

1319 STATISTICS AND REPORTS

- 1319.1 All business written pursuant to the Plan of Operation shall be coded separately in order that the experience of the business may be viewed separately from the experience on general business.
- 1319.2 The Facility shall furnish to all Members, to the Commissioner and to other entities as required by statute or regulation, a written report at such intervals and containing such information as may be required.

1320 CANCELLATION OR NON-RENEWAL OF ELIGIBLE RISKS

- 1320.1 Each Member Company agrees that on cancellations and non-renewals that it initiates on risks eligible for insurance under the Plan of Operation (except in cases of non-payment of premium, or evidence of incendiarism), it will:
- (a) Furnish the policyholder thirty (30) days advance written notice in order to allow time for the application for coverage to be made and a policy to be written under the provisions of the Plan of Operation; and
 - (b) Furnish the policyholder notice of the availability and location of the Facility.

1320 CONTINUING EDUCATION

The Facility shall undertake a continuing education program to assure that this program receives adequate public attention.

1321 MODIFICATION

The Plan of Operation may be amended by the Board in any manner not inconsistent with the Constitution of the Facility, subject to disapproval by the Commissioner in whole or in part in accordance with the provisions of the Statute.

1399 DEFINITIONS

When used in this chapter, the following terms shall have the meanings ascribed:

"Commissioner" means the Commissioner of Insurance, Securities and Banking of the District of Columbia or his designated agent.

"Basic Property Insurance" means insurance against direct loss to property caused by perils as defined and limited in the standard fire policy and extended coverage endorsement, including builder's risk coverage and vandalism and malicious mischief endorsements thereon and other insurance as the Commissioner has designated or may designate in accordance with the authority vested in him by the Statute.

"Environmental Hazard" means any hazardous condition that might give rise to loss under an insurance contract, but which is beyond the control of the Property Owner.

"Facility" means the District of Columbia Property Insurance Facility.

"Homeowner's Insurance" means insurance for residential property that provides a combination of coverages, including fire, extended coverage, vandalism and malicious mischief, burglary, theft, and personal liability. The term shall include a policy of insurance that is limited to basic market value, repair cost, or actual cash value contracts for owner-occupants of one-to-four-family dwellings as approved by the Commissioner.

"Licensed Insurance Producer" means an insurance producer required to be licensed in the District of Columbia to sell, solicit, or negotiate insurance.

"Manager" means the principal administrative officer of the District of Columbia Property Insurance Facility appointed by the Board of Directors.

"Member Company" or "Member" means a participant in the District of Columbia Property Insurance Facility.

"Plan of Operation" means the District of Columbia Property Insurance Facility's Plan of Operation.

"Premiums Written" means gross direct premiums charged with respect to property in the District of Columbia on all policies of Basic Property Insurance, Homeowners Insurance and the Basic Property Insurance premium components of all multi-peril policies, less all premiums and dividends returned, paid or credited to policyholders or the unused or unabsorbed portions of premium deposits.

"Property Owner" means any person having an insurable interest in real, personal, or mixed real and personal property.